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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/487,459	06/07/95	LEVINE	D ROGO-211.3-N

FELFE & LYNCH
805 THIRD AVENUE
NEW YORK NY 10022

12M2/0423

JORDAN, K.
EXAMINER

ART UNIT	PAPER NUMBER
1205	7

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

DATE MAILED: 04/23/96

☒ This application has been examined ☒ Responsive to communication filed on September 26, 1995 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 months from the date of this letter.
Failure to respond within the time period will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENTS ARE PART OF THIS ACTION:

- ☒ Notice of References Cited by Examiner, PTO-892.
- ☒ Notice re Patent Drawing, PTO-948.
- ☒ Notice of Art Cited by Applicant, PTO-1449
- ☐ Notice of Informal Patent Application, Form PTO-152.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☐

Part II SUMMARY OF ACTION

- ☒ Claims 1-18 are pending in the application.
Of the above claims, are withdrawn from consideration.
- ☐ Claims have been cancelled.
- ☐ Claims are allowed.
- ☒ Claims 1-18 are rejected.
- ☐ Claims are objected to.
- ☐ Claims are subject to restriction or election requirement.
- ☒ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
- ☐ Formal drawings are required in response to this Office action.
- ☐ The corrected or substitute drawings have been received on . Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
- ☐ The proposed additional or substitute sheet(s) of drawings, filed on has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
- ☐ The proposed drawing correction, filed on has been ☐ approved. ☐ disapproved (see explanation).
- ☐ Acknowledgment is made of the claim for priority under 35 USC 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. ; filed on .
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other

EXAMINER'S ACTION

Art Unit: 1205

Claims 1-18 are presented for examination.

The amendment received on September 26, 1995 has been entered.

This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

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Claims 1-18 are rejected under 35 U.S.C. § 103 as being unpatentable over Lichtenberger (A) in view of Cahill et al. (AS).

The claims appear to be drawn to a composition and method for treating endotoxemia by administering a combination of a cholanoic acid/salt such as a bile salt, a phospholipid such as phosphatidylcholine, and a neutral lipid such as a triglyceride. Lichtenberger teaches a composition for preventing or retarding the deleterious effects of endotoxins in the intestinal lumen (see column 3, lines 7-30). The composition consists of a phospholipid and neutral lipids such as triglycerides and/or sterols (see column 5, line 11-column 7, line 8). The claims differ from the cited reference in claiming bile salts as the sterol to be used in the composition. To use bile salts in the composition to treat endotoxemia would have been obvious from Cahill et al. which teaches the use of bile salts to prevent endotoxemia (see abstract, first paragraph). The claims fail to patentably distinguish over the state of the art as represented by the cited references.

The remaining references listed on the enclosed PTO-1449 are cited to show the state of the art.

No claims are allowed.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly Jordan whose telephone number is (703) 308-4611. The fax phone number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.

JORDAN:jd
APRIL 19, 1996



KIMBERLY JORDAN
PRIMARY EXAMINER
GROUP 1200